



U.S. POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Secretary

January 7, 2013

Karen Toole, City Clerk
City of Climax Georgia
105 Drane Street
Climax, GA 39834

RE: Appeal of the Postal Service's Determination to Close the Climax Post Office,
Climax, Georgia

Dear Ms. Toole

Enclosed please find a copy of the Postal Service's Motion to Dismiss and
Comments of the Public Representative filed in the above referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shoshana M. Grove".

Shoshana M. Grove
Secretary

Enclosures

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:
Climax Post Office
Climax, Georgia 39834

Docket No. A2013-3

**MOTION OF UNITED STATES POSTAL SERVICE
TO DISMISS PROCEEDINGS**
(December 21, 2012)

By means of Order No.1576 (December 12, 2012), the Postal Regulatory Commission (Commission) docketed a correspondence from Karen Toole (Petitioner) on behalf of the City of Climax, Georgia as an appeal, assigning PRC Docket No. A2013-3, pursuant to 39 U.S.C § 404(d). The correspondence, received December 11, 2012, purported to invoke the Commission's jurisdiction to consider an appeal concerning the Climax, Georgia Post Office. Order No. 1576 established December 21, 2012, as the date by which "[t]he Postal Service shall file the administrative record regarding this appeal, "or file "any responsive pleading." This pleading responds to that directive. No Proposal or Final Determination regarding discontinuance of the Climax Post Office has been posted; therefore, the Post Office remains in a status of suspended operation and the Commission lacks jurisdiction to hear this appeal.

Factual Background

As background, Climax Post Office had been a candidate facility within the Post Office Structure Plan (POStPlan).¹ Letters regarding the possible realignment of window service hours and a survey were mailed to customers of the Climax Post Office on September 28, 2012.² The letter explained POStPlan and informed customers that the Postal Service would hold a community meeting on November 8, 2012 to answer questions and provide additional information about POStPlan. In early August, the Postal Service entered lease negotiations with the landlord to renegotiate the lease. However, negotiations failed and the Climax Post Office suspended operations on October 31, 2012.³ As a result of the suspension, the Postal Service initiated a discontinuance feasibility study on November 1, 2012.⁴ In light of the fact that the community meeting had already been scheduled and publicized to the community, the Postal Service held the meeting as scheduled on November 8, 2012. At the meeting, Postal Service representatives discussed the status of the Climax Post Office and informed customers that operations had been suspended due to failed lease negotiations.⁵ On December 4, 2012, the Postal Service mailed customers another letter detailing the reason for the suspension and provided alternate locations where

¹ See PRC Docket No. N2012-2, USPS-LR-N2012-2/1 - Summary Spreadsheet, May 25, 2012. Climax, Georgia Post Office also appears on the updated Summary Spreadsheet in the same docket. See USPS-LR-N2012-2/11 - Summary Spreadsheet - Updated, July 19, 2012.

² See PRC Docket No. A2013-3, Petition for Review Received from Karen Toole Regarding the Climax, GA Post Office 39834, Dear Customer POStPlan Letter dated September 28, 2012.

³ See Attachment 1, Item No. 2, Notice of Post Office Emergency Suspension. Customers were notified of the suspension via letter and flyer posted at the Climax Post Office. See attachments to the petition, specifically the October 19, 2012 Dear Customer letter and the flyer that was posted on October 25, 2012.

⁴ See Attachment 2, Item No. 1, Authority to Conduct Investigation.

postal services could be obtained.⁶ The letter also informed customers that the Post Office would be studied for discontinuance while under suspension.

Accordingly, because the Post Office is now suspended, the Climax Post Office is no longer a candidate facility for the POSTPlan initiative, and it is now undergoing a discontinuance feasibility study. The study is still in its early stages and the Postal Service will continue to proceed in accordance with Handbook PO-101 and 39 U.S.C § 404(d) policies and procedures. As such, another community meeting will be scheduled to answer questions and discuss the possible closing of the Climax Post Office. Thereafter, if the Postal Service decides to proceed with closing the office, there will be a formal posting of a Proposal and a Final Determination. Thus, no final decision has been made to close the Climax Post Office.

Argument

Pursuant to 39 U.S.C. § 404(d)(5), “[a] determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person.” Pursuant to 39 C.F.R. § 241.3 and Handbook PO-101, the posting of the Final Determination is the appealable event. In this case, no Final Determination has been issued by the Postal Service or been made publically available to customers of the Climax Post Office. As such, no appealable event has occurred.

⁶ See Attachment 3, Item No. 3, Letter to Customers dated December 4, 2012.

Because the petition for review filed by the Petitioner, which was received by the Commission on December 11, 2012, was filed prior to both the discontinuance study concluding and the Postal Service issuance of a written Final Determination, the Commission should dismiss the appeal on grounds that it is premature.

As the Commission has previously held, the appropriate remedy for a premature appeal is dismissal. See Docket No. A2011-11 (dismissing an appeal for lack of jurisdiction) and more recently, Docket No. A2012-127 (dismissing an appeal as premature).⁷ The Commission's jurisdiction need not be invoked because the Postal Service has not yet determined whether to discontinue the Climax, Georgia Post Office.

Conclusion

The Postal Service has yet to issue a written Final Determination to discontinue the Climax, Georgia Post Office, and filing of a petition for review by Petitioner before such a Final Determination was issued is premature. Without a Final Determination for the Commission to review, the appeal cannot be adjudicated under section 404(d)(5).

Therefore, the Postal Service requests that this matter be dismissed.

⁷ Order No. 712, Order Dismissing Docket No. A2011-11 Ida, Arkansas, PRC Docket No. A2011-11, April 8, 2011; Order No. 1581, Order Dismissing Docket No. A2012-127 Tyner, IN, PRC Docket No. A2012-127, December 17, 2012.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business &
Service Development

Adriene M. Davis
Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-6036; Fax -5329
adriene.m.davis@usps.gov
December 21, 2012

ATTACHMENT 1



NOTICE OF POST OFFICE EMERGENCY SUSPENSION

A. Suspended Office

Name: CLIMAX State: GA Zip Code: 39834
Area: SOUTHERN District: NORTH FLORIDA PFC
Congressional District: 2 County: DECATUR
EAS Grade: T6 Finance Number: 121804
Post Office: ☒ Classified Station ☐ Classified Branch ☐ CPO ☐

Effective date of suspension:

10/31/2012

Date CPO Established:

Justification (specific reason(s) for suspension):

Negotiations with the current landlord started in August to drop the lease to fair market value. The current lease was \$11.84/sqft. The average lease for offices surrounding this office is \$7.43/sqft. FSO countered several times with the last offer of \$8.50/sqft with a 60 day termination clause. The landlord made the last final offer of \$8.75/sqft 5 year term no termination clause and all other terms remain the same.

Alternate Service Provided (i.e. rural delivery to roadside mailboxes, CBUs, ect.):

RURAL SERVICE WILL CONTINUE TO BE PROVIDED BY THE WHIGHAM GA 39897 POST OFFICE. POST OFFICE BOX SERVICE WILL BE PROVIDED BY VPO CLIMAX GA AT 115 W BROAD ST. LOCATED DIRECTLY ACROSS STREET FROM PRESENT LOCATION OF THE POST OFFICE. NO CUSTOMER ADDRESSES WILL BE AFFECTED. FULL WINDOW SERVICES ARE AVAILABLE AT THE BAINBRIDGE POST OFFICE LOCATED 9.3 MILES AWAY OR THE WHIGHAM GA POST OFFICE LOCATED 6.5 MILES FROM PRESENT LOCATION. RURAL CARRIER WILL HAVE SUPPLIES AND STAMPS AVAILABLE FOR PURCHASE.

Effect on Employees (include Career/Noncareer Employees):

EMPLOYEES and RURAL ROUTES WILL BE RELOCATED TO ADMINISTRATIVE OFFICE 6.5 MILES.

Hours of Operation:

Retail Hours Saturday 845 to 1015 Monday - Friday 830 to 1200 - 1330 to 1630

(include lunch break)

0 General Deliveries

162 Post Office Box

999 Total Customers

B. Administrative Office

Name: WHIGHAM State: GA Zip Code: 39897
EAS Grade: 18 Finance Number: 129363 Miles Away: 6.5
PO Boxes Available: 222

Hours of Operation

Retail Hours Saturday 800 to 1000 Monday - Friday 800 to 1230 - 1400 to 1630

(include lunch break)

C. Nearest Office

Name: BAINBRIDGE State: GA Zip Code: 39817
EAS Grade: 21 Finance Number: 120572 Miles Away: 9.3
PO Boxes Available: 1040

Hours of Operation

Retail Hours Saturday 930 to 1130 Monday - Friday 830 to 1700

(include lunch break)

D. Postmaster Organization Notification:

Notified: YES ☒ NO ☐

Date of Notification: 10/25/2012

E. Plan of Action (HQ must be notified with 90 days):

OFFICE WILL BE STUDIED FOR DISCONTINUANCE.

Prepared by: ALICE RYLE

Date: 11/28/2012

Title: NORTH FLORIDA PFC Post Office Review Coordinator

Approved By

Date 12/04/2012

CHARLES MILLER
DISTRICT MANAGER
NORTH FLORIDA PFC

cc: Area PO Review Coordinator
District PO Review Coordinator
Nation League of Postmasters
National Association of Postmasters of the United States

ATTACHMENT 2



11/01/2012

CHARLES MILLER
DISTRICT MANAGER
NORTH FLORIDA PFC

SUBJECT: Authority to Conduct Investigation

I request your authorization to investigate a possible change in postal services for the office in the 2 congressional district.

Post Office Name: CLIMAX
Zip+4 Code: 39834-9998
EAS Level: 15
Finance Number: 121804
County: DECATUR
Proposed Admin Office: WHIGHAM ADMIN Miles Away: 6.5
Near Office Name: BAINBRIDGE Near Miles Away: 9.3
Number of Customers:
Post Office Box: 162
Total Customers: 999
ZIP Code Change: Yes ☐ NO ☒ ZIP Code
Maintain Town Name: Yes ☒ NO ☐

The above office became vacant when the postmaster retired on 07/31/2012.

(Please check below the rational for this study. You can check more than one box.)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Emergency Suspension | <input type="checkbox"/> Office Workload |
| <input type="checkbox"/> Insufficient Customer Demand | <input type="checkbox"/> Reasonable Alternate Access |
| <input type="checkbox"/> Special Circumstances | |


STACY BRINSON
Manager, Post Office Operations

Approval to Study for Discontinuance:


DISTRICT MANAGER
NORTH FLORIDA PFC

11/01/2012

DATE

cc: Area Manager, Public Affairs and Communication

ATTACHMENT 3



Docket: 1358386 - 39834
Item Nbr: 3
Page Nbr: 1

12/04/2012

Dear Postal Customer:

The CLIMAX Postmaster retired on 07/31/2012. A noncareer clerk from the office has served as the officer-in-charge since that time. Negotiations with the current landlord started in August to drop the lease to fair market value. The current lease was \$11.84/sqft. The average lease for offices surrounding this office is \$7.43/sqft. FSO countered several times with the last offer of \$8.50/sqft with a 60 day termination clause. The landlord made the last final offer of \$8.75/sqft 5 year term no termination clause and all other terms remain the same. Therefore, it will be necessary to suspend services at the CLIMAX at the close of business on 10/31/2012. This change is tentative and will not lead to a formal proposal unless we conclude that it will provide a maximum degree of regular and effective postal services.

While the office is suspended, OFFICE WILL BE STUDIES FOR DISCONTINUANCE. Please contact the postmaster of the for advice regarding the potential placement of mailboxes. Customers presently receiving rural delivery will not experience a change in service, with the possible exceptions of picking up parcels and accountable mail at the that the carrier was unable to deliver. CLIMAX route customers will continue to use CLIMAX GA 39834 as their last line of delivery.

Rural delivery is particularly beneficial to senior citizens, people with disabilities, and working people because no one has to pick up the mail from the post office. You will have 24-hour access to your mail. In addition, the rural carrier can provide all the retail services provided at the CLIMAX. Enclosed is information about some of the services available from the carrier. Most transactions do not require meeting a carrier at the mailbox. Stamps By Mail order envelopes and Money Order Application forms are available for your convenience; or you may place a note in the mailbox, with payment, and the carrier will provide the requested services. When an accountable item requiring a signature, such as a certified letter, cannot be delivered on the first day, the carrier will return the item to the Post Office. You may pick up the article at the Post Office, request redelivery on another day convenient for you, or authorize the carrier to deliver the item to another person.

Customers who wish to obtain Post Office box service may do so at the adminoffice Post Office, located 6.5 miles away. The Post Office has 24-hour lobby access for customer convenience. Window service hours at are 800 to 1230 - 1400 to 1630 Monday through Friday and 800 to 1000 on Saturday. Post Office box lobby hours are adminlobbysat Monday through Friday and adminlobbysat on Saturday. Post Office boxes are available at this location (*check office for fees*). If applicable, Post Office Box refunds can be received at the CLIMAX PO.

Retail services are also available at the Post Office, located 9.3 miles away. Window service hours at Post Office are from nearmfretail, Monday through Friday, and nearsatretail on Saturday. Post Office box lobby hours are nearmflobby.

If you have any questions concerning the placement of rural mailboxes or the services available to you through the rural carrier, please contact the postmaster.

I realize with change there is always concern. No final decision to permanently discontinue the Post Office has been made. A community meeting will be held at or near the in the coming weeks to explain our plans and solicit your comments concerning possible alternate means of providing postal and other services. In the interim, we are confident that carrier delivery will continue to provide CLIMAX customers with effective and regular postal services.

Sincerely,

STACY BRINSON
Manager, Post Office Operations

Enclosure: Official Record

CC:

Postmaster/OIC CLIMAX PO

Postmaster /

Post Office Review Coordinator

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Climax Post Office
Climax, Georgia

Docket No. A2013-3

INITIAL COMMENTS OF THE PUBLIC REPRESENTATIVE

January 3, 2013

I. INTRODUCTION

On December 11, 2012, the Commission received a petition from Karen Toole, City Clerk, Citizen of Climax Georgia (Petitioner) to review the Postal Service's decision to close the Climax Post Office in Climax, Georgia (Climax Post Office).¹ On December 12, 2012, the Commission issued Order No. 1576, which institutes the current review proceeding, appoints a Public Representative, and establishes a procedural schedule.² In accordance with Order No. 1576, the Postal Service filed a motion to dismiss the proceeding in lieu of an administrative record.³ The Public Representative files these comments in support of the Postal Service's motion and suggests that the Commission dismiss the Petition without prejudice until such time that the issues are ripe for review.⁴

¹ Petition for Review Received from Karen Toole Regarding Climax, Georgia Post Office 39834, December 11, 2012 (Petition).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 12, 2012 (Order No. 1576).

³ Motion of United States Postal Service to Dismiss Proceedings, December 21, 2012.

⁴ The Commission has established a due date of January 24, 2012, for statements opposing the return of the matter for further consideration. Order No. 1576; see 39 C.F.R. 3025.42.

II. STATEMENT OF FACTS

The Postal Service initiated a review of the Climax Post Office under the Post Office Structure Plan (POStPlan) procedures. While this review was in progress, the Postal Service entered into negotiations with the facility's landlord to renew the lease. The Postal Service and the landlord did not reach agreement to renew the lease. Thus, the Postal Service suspended operations at Climax Georgia on October 31, 2012, and as a result of the suspension, initiated a discontinuance feasibility study on November 1, 2012. The discontinuance feasibility study is in its early stages and no final decision to close the Climax Post Office has been made. The Postal Service has not prepared or formally posted a Proposal or a Final Determination at the Climax Post Office.

III. COMMENTS

The Public Representative suggests that the Commission dismiss the Petition without prejudice until such time that the issues presented by this docket are ripe for review. The Postal Service has not had an adequate opportunity to develop an Administrative Record or come to a final determination to close the Climax Post Office. Because the Postal Service has promptly initiated a discontinuance feasibility study, it does not appear that the Postal Service is keeping the citizens of Climax in limbo or abusing its suspension procedures. The Commission may want to monitor the progress of the discontinuance feasibility study to ensure prompt completion. Without evidence to the contrary, it appears that the Postal Service is continuing to provide adequate postal services to the citizens of Climax.

Respectfully submitted,

James Waclawski
Public Representative

901 New York Ave. NW, Ste. 200
Washington, DC 20268-0001
202-789-6826, FAX 202-789-6861
james.waclawski@prc.gov